

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY 4 D.C.
05 OCT -5 AM 8:32
THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, JACKSON

BRANDI JAMES, DEBORAH)
BEECHAM, MELANIE HAGGARD,)
LEE ANN HOPPER, JEFFREY)
HORNER, ANN WOOD, TAMELA)
FLOWERS, DAVID SENNA,)
and others similarly situated,)

Plaintiffs,)

VS.)

No. 05-1219-T-An

SCOOTERS RESTAURANT AND)
DAIRY BAR, INC., et al.,)

Defendants.)

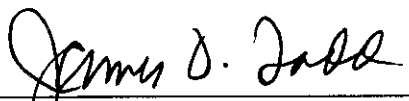
ORDER DENYING MOTION FOR DEFAULT JUDGMENT

Plaintiffs have moved for a default judgment against Defendants. However, the record does not indicate that entry of default has been sought from the clerk of the court, which is necessary before a default judgment may be entered. See Fed. R. Civ. P. 55(a); 10 Wright, Miller & Kane, Federal Practice and Procedure § 2682. See also Gilbert v. Eckerd Drugs, 1998 WL 388567 (E.D. La.) (Entry of default from the clerk of court under Rule 55(a) of the Federal Rules of Civil Procedure is a prerequisite to obtaining an entry of judgment of default under Rule 55(b)); Green v. Metropolitan Property & Casualty Ins.

Co., 1997 WL 560769 (N.D. Tex.) (Defendant's request for entry of a default judgment is procedurally inappropriate because Defendant did not first seek entry of default from the clerk of the court before seeking entry of judgment on the default from the court.); Dahl v. Kanawha Inv. Holding Co., 161 F.R.D. 673 (N.D. Iowa 1995) ("The Dahls [plaintiffs] have not made the first step, seeking entry of default from the clerk of the court, and therefore their motions for default judgment are not on the proper procedural footing.")

Consequently, Plaintiffs' motion for default judgment is DENIED without prejudice to re-filing after the entry of default has been obtained.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 8 in case 1:05-CV-01219 was distributed by fax, mail, or direct printing on October 6, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT